

REMARKS

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Currently, Claims 1-44 are pending. With this Amendment, Claims 1, 19, 30 and 41 have been amended.

Amendment to the Claims

Claims 1-44 have been rejected, with no claims being allowed. Claims 1, 19, 30 and 41 have been amended. Applicants respectfully believe these amendments overcome the Examiner's claim rejections.

Applicants have amended Claims 1, 19 30 and 41 to include the limitation of each of the zones of differential breathability comprise a portion of the film and a portion of the nonwoven facing material. Support for this amendment is provided at page 26, line 18 to page 27, line 9, of the Specification, as well as in Figs. 1 and 4.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-44 under 35 U.S.C. §103(a) as being unpatentable over Dailey et al. (U.S. Patent No. 5,036,551) in view of Dobrin (U.S. Statutory Invention Registration H1750) in view of Kitamura et al. (U.S. Patent No. 4,829,096) is respectfully traversed, particularly in view of the above amendments and the following remarks.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Dailey et al. disclose elastomeric laminates comprising a microporous polymeric membrane, a continuous water vapor permeable polymer layer and an

elastomeric nonwoven web. The laminate is used to manufacture gloves. Dailey et al. do not suggest a laminate having different zones of breathability.

Dobrin discloses a laminate backsheet having an outer layer and an inner layer. The outer layer is a nonwoven web. The inner layer can be a breathable film. (Col. 6, line 52 – Col. 7, line 68). As shown in Fig. 3 of Dobrin, and discussed in Col. 8, line 1 to Col. 9, line 28, the laminate backsheet comprises a first breathable zone and second breathable zones. “The size of the inner layer 90 is a key factor in forming the first breathable zone 82 and the second breathable zones 80. The size and shape of the inner layer 90 generally determines the size, shape, and location of the first breathable zone 82 and the second breathable zones 80.” (Col. 8, lines 1-5). The first breathable zone 82 comprises the outer layer and the inner layer. However, the second breathable zones 80 comprises only the outer layer. (Col. 9, lines 18-22, and Fig. 3). Thus, the zones of breathability are created by simply layering a narrow piece of a film (the inner layer) on top of a wider piece of nonwoven web (the outer layer). Clearly, the difference in the breathability between the zones is attributed to the difference in breathability of the materials themselves. Thus, Dobrin does not suggest that each of the first and the second zones of breathability comprises a portion of the film and a portion of the nonwoven facing material, as required by the Applicants’ claims, as amended. Moreover, by teaching specifically that only the first zone comprises both the film and the nonwoven, Dobrin teaches away from the idea of having all of the zones of breathability comprising both layers.

Kitamura et al. disclose a breathable film. Breathability is imparted to the film by uniaxially or biaxially stretching. (Col. 4, lines 2-3). Kitamura does not suggest selectively stretching the film to achieve different zones of breathability within the film.

Another criterion for establishing a *prima facie* case of obviousness is that there must be a reasonable expectation of success. Absent impermissible hindsight, a person skilled in the art would not logically combine the teachings of Dobrin with the teachings of Kitamura et al. and Dailey et al. to render Applicants’ claimed invention, as amended, because Dobrin discloses a laminate having a film and nonwoven layer that are not coextensive (i.e., not the same size and shape), whereas Dailey et al. disclose simply

an elastomeric composite fabric used to manufacture gloves, while Kitamura teaches merely a breathable film. Even if the references were combined, there would be no suggestion to a person skilled in the art to extract the “stretching a film to impart breathability” concept from Kitamura et al. and insert this concept into the Dobrin or Dailey et al. laminate because in Dobrin it is critical to have zones that do not comprise both the film and nonwoven because this is how the difference in breathability is accomplished. Therefore, Dobrin would teach away from the concept of having all of the zones include a portion of the film and a portion of the nonwoven. There is no suggestion in either Kitamura et al., Dobrin or Dailey that using differential stretching will achieve zones of differential breathability. Thus, in the combination of Dailey et al., Dobrin and Kitamura et al. there is no teaching or suggestion to make Applicants’ claimed invention, nor is there any reasonable expectation of success.

Yet another factor in establishing a *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all the claim limitations. Neither Dailey et al., nor Dobrin, nor Kitamura et al., alone or in combination, disclose or suggest a breathable laminate having different zones of breathability, with each zone including a portion of the film and a portion of the nonwoven. Although Dobrin discloses different breathable zones, not all of the zones include both a portion of the film and a portion of the nonwoven.

For at least the reasons presented above, Applicants respectfully submit that Claims 1-44 are not rendered obvious by combining Dailey et al., Dobrin and Kitamura et al. Thus, Applicants respectfully request withdrawal of this rejection.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Respectfully submitted,



Margaret M. Crosby
Registration No. 40,969

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403